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4 Attorney for Plaintiff/Counterclaim-Defendant  
5

6 **UNITED STATES DISTRICT COURT**  
7 **CENTRAL DISTRICT OF CALIFORNIA**  
8

9  
10 JAMES R. GLIDEWELL DENTAL  
CERAMICS, INC. DBA  
11 GLIDEWELL LABORATORIES, a  
California corporation,  
12  
Plaintiff

13 vs.

14 KEATING DENTAL ARTS, INC., a  
15 California corporation,  
16  
Defendant.

17  
18 KEATING DENTAL ARTS, INC., a  
California corporation,  
19  
Counterclaim-Plaintiff,

20 vs.

21 JAMES R. GLIDEWELL DENTAL  
22 CERAMICS, INC., DBA  
GLIDEWELL LABORATORIES, a  
23 California corporation, and  
DOES 1 THROUGH 5, inclusive,  
24  
Counterclaim-Defendants.

Case No. SACV11-01309-DOC(ANx)

**PLAINTIFF'S/COUNTERCLAIM-  
DEFENDANT FIRST REQUEST FOR  
ADMISSIONS NOS. 1 THROUGH 11**

25  
26 Pursuant to Rules 26 and 36 of the Federal Rules of Civil Procedure,  
27 Plaintiff James R. Glidewell Dental Ceramics, Inc., dba Glidewell  
28

1 Laboratories having a business address at 4141 MacArthur Boulevard  
 2 Newport Beach, California 92660 (hereinafter "PLAINTIFF"), hereby  
 3 requests that Defendant, Keating Dental Arts, Inc. having a business address at  
 4 16881 Hale Avenue, Irvine, California 92606 (hereinafter "DEFENDANT"),  
 5 respond to the following request for admissions, separately and fully, in  
 6 writing within thirty (30) days of the date of service hereof. These requests  
 7 are deemed continuing in nature, requiring amendment and supplemental  
 8 answers as appropriate.

### 10 DEFINITIONS AND INSTRUCTIONS

12 The definitions set forth in Plaintiff's First and Second Set of Requests  
 13 for Production of Documents and Things to Defendants are hereby  
 14 incorporated herein by reference.

15 Unless the context indicates otherwise, the following words and phrases  
 16 are defined and used herein as follows:

- 17 1. The term "Glidewell" shall refer to James R. Glidewell Dental  
 18 Ceramics, Inc. dba Glidewell Laboratories, all of their divisions,  
 19 departments, nominees, affiliated entities and units, including  
 20 subsidiaries, instrumentalities, subdivisions, predecessors, successors  
 21 and assignees; its administrators, officers, directors, employees,  
 22 agents, representatives, consultants, special assistants, joint ventures,  
 23 contractors, and attorney's; and/or any person(s) who at any time  
 24 acted by, through, or on behalf of any of them.
- 25 2. The term "KDA" shall refer to Keating Dental Arts, Inc., all of their  
 26 divisions, departments, nominees, affiliated entities and units,  
 27 including subsidiaries, instrumentalities, subdivisions, predecessors,  
 28

1 successors and assignees; its administrators, officers, directors,  
2 employees, agents, representatives, consultants, special assistants,  
3 joint ventures, contractors, and attorneys; and/or any person(s) who  
4 at any time acted by, through, or on behalf of any of them.

5 3. The terms "and" and "or" shall be construed both conjunctively and  
6 disjunctively, and the plural shall be construed as the singular, and  
7 vice versa, as necessary and in order to bring within the scope of  
8 these requests all information that might otherwise be construed to  
9 be outside their scope.

10 4. The term BRUXZIR is the mark as cited in Serial No. 77/761,757,  
11 before the United States Patent and Trademark Office.

12 5. If, in answering any of these requests, you claim any ambiguity in  
13 interpreting either the request or a definition or instruction applicable  
14 thereto, such claim shall not be utilized by you as a basis for refusing  
15 to respond, but there shall be set forth as part of the response the  
16 language deemed to be ambiguous and the interpretation chose or  
17 used in responding to the request.

18 6. In relation to each Request Defendant shall admit or deny the matter  
19 of which an admission is requested or give detailed reasons why  
20 Defendant cannot truthfully admit or deny the matter. When in good  
21 faith Defendant is required to qualify an answer to a Request or deny  
22 only a part of the matter of which an admission is requested  
23 Defendant shall specify so much of the matter requested as is true  
24 and qualify or deny the remainder.

25 7. If the Answer to any Request is that Defendant lacks sufficient  
26 information or knowledge to admit or deny the Request, describe all  
27 efforts made by Defendant to obtain the information necessary to  
28

1 answer the request.

- 2 8. If Defendant objects to any request please state the reasons for the  
3 objection and if Defendant contends that any information requested  
4 is privileged or otherwise excludable from discovery, please provide  
5 all information falling within the scope of the Request that is not  
6 privileged and, with respect to each item of information for which  
7 Defendant claims a privilege, Defendant is requested to separately  
8 describe any such item of information in sufficient detail for  
9 identification purposes and to state the basis of the asserted privilege  
10 or other grounds for exclusion.  
11 9. These requests shall be deemed to be continuing in nature, and the  
12 responding party shall duly supplement its answers as additional  
13 information becomes available.

14  
15 **REQUEST FOR ADMISSION**

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17 **REQUEST FOR ADMISSION NO. 1:**

18 PLAINTIFF's BRUXZIR trademark is a strong mark.

19  
20 **REQUEST FOR ADMISSION NO. 2:**

21 BRUXZIR and KDZ BRUXER are both used on dental restorations  
22 made of full contour zirconia and sold to dentists.

23  
24 **REQUEST FOR ADMISSION NO. 3:**

25 There is no "Z" sound in bruxer.

1 REQUEST FOR ADMISSION NO. 4:

2 There is no "ZIR" sound in bruxer.

3  
4 REQUEST FOR ADMISSION NO. 5:

5 DEFENDANT Keating uses the term KDZ BRUXER as a trademark for  
6 dental restorations sold to dentists.

7  
8 REQUEST FOR ADMISSION NO. 6:

9 DEFENDANT Keating is attempting to register the trademark KDZ  
10 BRUXER in the United States Patent and Trademark Office.

11  
12 REQUEST FOR ADMISSION NO. 7:

13 DEFENDANT Keating has no knowledge of whether any particular  
14 KDZ BRUXER crown is used to repair a tooth damaged by bruxism.

15  
16 REQUEST FOR ADMISSION NO. 8:

17 KDZ BRUXER crowns are ordered by dentists using DEFENDANT  
18 Keating forms that do not mention bruxism except as part of the trademark  
19 "KDZ BRUXER".

20  
21 REQUEST FOR ADMISSION NO. 9:

22 KDZ BRUXER crowns are sold to dentists who normally do not  
23 indicate the reason why the patient needs a crown.

24  
25 REQUEST FOR ADMISSION NO. 10:

26 DEFENDANT Keating does not determine whether its KDZ BRUXER  
27 crowns are being sold to dentists for patients who have teeth damaged by  
28

1 bruxism.

2  
3 REQUEST FOR ADMISSION NO. 11:

4 DEFENDANT Keating personnel know of no other dental labs which  
5 currently sell a full contour zirconia crown using a trademark containing the  
6 term "brux" other than Glidewell Laboratories.

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8  
9 Respectfully submitted,

10   
11 Leonard Pachner  
12 Attorney for the Plaintiff/Counterclaim-Defendant  
13 17961 Sky Park Circle  
Suite 38-E  
Irvine, California 92614

14 Dated: September 21, 2012

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### PROOF OF SERVICE

I am a resident of the state of California, I am over the age of 18 years, and I am not a party to this lawsuit. My business address is 17961 Sky Park Circle, Suite 38-E, Irvine, California 92614. On September 21, 2012, I served the following document(s) in the manner indicated:


1. Plaintiff's/Counterclaim-Defendant First Request For Admissions  
Nos. 1 through 11

- ☐ via electronic means by the Court's electronic filing system CM/ECF.
- ☒ by placing the document(s) listed above in a sealed envelope to the person at the address set forth below by postage prepaid United States First Class mail on the same date set out below.

Lynda J. Zadra-Symes Esq.  
Jeffrey L. Van Hoosear, Esq.  
Knobbe, Martens, Olson & Bear, LLP  
2040 Main Street, Fourteenth Floor  
Irvine, CA 92614

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed September 21, 2012 at Irvine, California.

  
\_\_\_\_\_  
Jodie Miller

Case No.: SACV11-01309-DOC(ANx)  
CERTIFICATE OF SERVICE